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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,189	03/26/2004	Mark Grayson	062891.1216	8023
5073	7590	11/15/2005	EXAMINER	
BAKER BOTTS L.L.P.			PATEL, JAY P	
2001 ROSS AVENUE				
SUITE 600			ART UNIT	
DALLAS, TX 75201-2980			PAPER NUMBER	
			2666	

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/810,189	GRAYSON ET AL.	
	Examiner	Art Unit	
	Anh-Vu H. Ly	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This communication is in response to applicant's amendment filed August 19, 2005.

Claims 1-44 are pending.

Claim Objections

2. Claims 11, 25, 38, and 44 are objected to because of the following informalities:

With respect to claims 11 and 38, in line 1, "the logic embodied in a medium" is unclear.

It is unclear of what medium being referred to, e.g., computer readable medium, etc...

With respect to claim 25, in line 4, "the processor" lacks clear antecedent basis.

With respect to claim 44, in line 20, "enabler mobile" should be changed to - -enabler device- - to be consistent with "enabler device" as recited in line 8. Further, as recited in line 21, "the plurality of user devices comprising" lack antecedent basis.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 1-4, 6-9, 11-14, and 16-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Toth et al (US Pub 2005/0053068 A1).

With respect to claims 1, 6, 11, 28, 33, 38, 43, and 44, Toth discloses a method for providing a multicast service, comprising:

maintaining multicast service information at an application server (Fig. 1, GGSN1 which including memory and processors for storing and processing), the multicast service information describing a multicast service having an associated subscriber (Fig. 1, MCS multicasting data to M1-M10), the multicast service operable to deliver multicast content from a multicast source (page 3, 50th paragraph – a multicast source (MCS) is coupled to the GGSN and delivers for instance various multicast services such as streaming video and audio);

determining a cell supporting a user device associated with the subscriber (Fig. 1, M1-M3 coupled to RAN1);

initiating creating of a bearer path for the multicast service (page 4, 81st paragraph – SGSN informs the RAN that mobile station is joining the multicast group, so that the proper radio access bearer can be set up for the given multicast session); and

directing an enabler mobile to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell (Fig. 3, RAN forwards multicast data to the MS, RAN is located within a cell).

With respect to claims 2, 7, 12, and 44, Toth discloses determining an enabler mobile corresponding to the cell supporting the user device; and instructing the enabler mobile to initiate creation of a radio access bearer (page 4, 81st paragraph – SGSN informs the RAN that mobile

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station is joining the multicast group, so that the proper radio access bearer can be set up for the given multicast session. Herein, RAN is already determined as the RAN serving the mobile station).

With respect to claims 3, 8, 13, 30, 35, 40, and 44, Toth discloses communicating one or more parameters associated with the bearer path to the user device, the user device operable to use the parameters to receive the multicast content (page 4, 87th paragraph – SGSN notifies the mobile station of the radio access bearer and quality of service defined for the multicast session).

With respect to claims 4, 9, 14, 31, 36, and 41, Toth discloses establishing a multicast service level of the multicast service in accordance with the cell supporting the user device (page 4, 78th paragraph – GGSN decide the quality of service to use for the distribution of the multicast group based on information from the source, operator settings and/or the mobile terminal).

With respect to claims 16, 18, and 20, Toth discloses a method for providing a multicast service, comprising:

receiving at an enabler device an instruction to create a radio access bearer for a multicast service and creating radio access bearer for the multicast service in response to the instruction (page 4, 81st paragraph – SGSN informs the RAN that mobile station is joining the multicast group, so that the proper radio access bearer can be set up for the given multicast session), the multicast service operable to deliver multicast content from a multicast source (page 3, 50th paragraph – a multicast source (MCS) is coupled to the GGSN and delivers for instance various

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multicast services such as streaming video and audio), the enabler device assigned to a cell supporting a user device (Fig. 1, M1-M3 coupled to RAN1);

opening a PDP context for the radio access bearer (page 4, 79th paragraph- GGSN sends a multicast context activation message to the SGSN); and

directing an enabler device to facilitate delivery of the multicast content to the user device using the bearer path, the enabler mobile located in the cell (Fig. 3, RAN forwards multicast data to the MS, RAN is located within a cell).

With respect to claims 17, 19, and 21, Toth discloses communicating one or more parameters associated with the radio access bearer to an application server (page 4, 76th paragraph – mobile terminal issues a membership report message which may contain information about he desired quality of service).

With respect to claims 22, 24, and 26, Toth discloses a method for providing a multicast service, comprising:

receiving and activating at a multicast gateway support node a PDP context for a multicast service (page 4, 79th – GGSN sends a multicast context activation message to the SGSN), the multicast service facilitated by a plurality of enabler mobiles located in one or more cells (Fig. 1, RAN1-RAN3), the plurality of enabler mobiles operable to deliver multicast content from a multicast source (page 3, 50th paragraph – a multicast source (MCS) is coupled to the GGSN and delivers for instance various multicast services such as streaming video and audio);

receiving an instruction to join a multicast tree for the multicast service and joining the multicast tree in response to the instruction (page 4, 86th paragraph – SGSN replies to the GGSN, whereby the SGSN, which including at least one processor, if not already a part, becomes a part of the multicast tree).

With respect to claims 23, 25, 27, 32, 37, 42, and 44, Toth discloses receiving the multicast content communicated using a plurality of data packets (Fig. 1, SGSN1 and SGSN 2 receiving GTPT7 and GTPT8); and duplicating the data packets to create duplicated data packets for each enabler mobile of the plurality of enabler mobiles (Fig. 1, SGSN duplicates GTPT7 for RAN 1 and RAN3).

With respect to claims 29, 34, 39, and 44, Toth discloses activating at a multicast gateway support node a PDP context for the multicast service (page 4, 79th – GGSN sends a multicast context activation message to the SGSN); and joining the multicast gateway support node to a multicast tree for the multicast service (page 4, 86th paragraph – SGSN replies to the GGSN, whereby the SGSN, which including at least one processor, if not already a part, becomes a part of the multicast tree).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

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matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 10, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toth et al (US Pub 2005/0053068 A1) in view of Rodriguez Gil, R. et al (WO 03/039024 A2).

With respect to claims 5, 10, and 15, Toth discloses a method for providing a multicast service (Fig. 1). Toth does not disclose determining a signal power; calculating power control information from the signal power; and initiating adjustment of the signal power according to the power control information. Rodriguez Gil discloses determining a signal power; calculating power control information from the signal power; and initiating adjustment of the signal power according to the power control information (Fig. 3, quality level is determined whether greater than level max or lesser than level min, if yes, then, power out is adjusted). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the feature of adjusting the power level in Toth's system, as suggested by Rodriguez Gil, to increase quality of service.

Response to Arguments

5. Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fuchs et al (US Pub 2004/0266440 A1) discloses multicast transmission in packet based cellular networks.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H. Ly whose telephone number is 571-272-3175. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2667
06/10/08